

REMARKS

In response to the objections raised by the Examiner in the June 16, 2003 Restriction Requirement, our comments follow. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the amendments and remarks therewith.

RESPONSE TO THE RESTRICTION REQUIREMENT

The June 16, 2003 Office Action required an election under 35 U.S.C. § 122, to the subject matter of one of the following groups:

- I. Figures 1-3, 7 and 8-8H
- II. Figures 4 and 7
- III. Figures 5 and 7
- IV. Figures 6 and 7

In response, the invention of Group I Figures 1-3, 7 and 8-8H are elected with traverse for further prosecution on the merits. Reconsideration and withdrawal of the restriction requirement are respectfully requested in view of the remarks herewith.

The M.P.E.P. lists two criteria for a proper restriction requirement. First, the inventions must be independent or distinct as claimed, (M.P.E.P. §803). In the present restriction requirement, the examiner has not referenced the claims at all. Rather, the examiner has referenced Figures. While the figures assist in understanding the invention, it is the claims that must be searched, and it is the claims that must be the subject of any decision regarding restriction requirement. Thus, it is respectfully requested that the restriction requirement is withdrawn an improper.

Second, searching the additional inventions must constitute an undue burden on the examiner if restriction is not required. *Id.* The M.P.E.P. directs the examiner to search and examine an entire application “[i]f the search and examination of an entire application can be made with serious burden,... even though it includes claims to distinct or independent inventions.” *Id.*

The present invention relates to, *inter alia*, automated kiosks having a plurality of cross members and a plurality of components releasably secured to said cross members. All of the figures are directed to varying embodiments of the invention claimed in claims 1

to 20. It is respectfully pointed out that the Examiner, in defining the subject matter of the Groups failed to recognize that the claims cover the embodiments depicted in each Group. A search of the subject matter in the claims would consequently and inextricably encompass a search of the Figures included in Group I to IV.

Furthermore, there is unity of invention between Groups I through IV as they encompass interrelated art and a search on the claims of one of the Groups would necessarily and inextricably encompass as search on the claims of the other Groups. Therefore, reconsideration and withdrawal of the requirement for restriction is respectfully requested.

It is submitted that the Groups by in the Office Action do not warrant separate examination and search. Therefore, it is submitted that the claims of Groups I through IV should be searched, examined and rejoined. Accordingly, it is respectfully requested that the restriction requirement be withdrawn, especially given that the requisite showing of serious burden has not been made.

CONCLUSION

The result of the present restriction requirement is inefficiency and unnecessary expenditure by both the Applicant and the PTO and extreme prejudice to Applicants. Restriction has not been shown to be proper, especially since the restriction requirement is not directed to the claims at all, but rather to Figures, which is improper. Furthermore, there has been no showing made of any distinction among the claims, and showing of serious burden has not been made and there are relationships between the claims of Groups I through IV. Indeed, the search and examination of each Group is likely to be co-extensive and, in any event, would involve such interrelated art that the search and examination of the entire application can be made without undue burden on the Examiner. All of the preceding remarks, therefore, mitigate against restriction.

Yours very truly,
Julian Bowron

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By:


David J. Heller, Reg. No. 43,384

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